IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

Crl.MC.No. 662 of 2007()

PETITIONER: WITNESS

K.PRAHLADAN, S/O.KARUNAKARAN,
MANGATTETHU HOUSE, ELIPPAKULAM,
VALLIKUNNAM VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT.

BY ADV. SRI.K.RAVEENDRAN
SRI.ANIL KUMAR M.SIVARAMAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SATHEESH, S/O.NARAYANAN,
MANGALATH HOUSE, KARUMUMCHERRY MURI,
PIDAVOOR VILLAGE, PATHANAPURAM TALUK.

3. THE CIRCLE INSPECTOR OF POLICE,
PANDALAM, PATHANAMTHITTA DISTRICT.

4. THE SUB INSPECTOR OF POLICE, KODUMON,
PATHANAMTHITTA DISTRICT.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 662 of 2007

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Dated this the 12th day of March, 2007

O R D E R

The petitioner is a witness in a criminal prosecution. According to him, he had appeared before the learned Magistrate. He was examined in chief as early as in 2005. He had later appeared twice for cross examination. He was not cross examined for reasons not attributable to him. The accused and his counsel were not ready for cross examination, it is submitted. Now the petitioner finds that a non-bailable warrant is issued against him by the learned Magistrate. He apprehends that when he appears, he may be kept in custody. He is willing to appear and co-operate with the proceedings. There is no willful contumacious act on his part. In these circumstances the petitioner may be permitted to appear before the learned Magistrate in peace without execution of the non-bailable warrant. This in short is the plea raised. The case is posted to 21.3.20076, submits the counsel. The learned counsel undertakes that the petitioner shall appear before the learned Magistrate on 21.3.2007 without fail. In these circumstances execution of the warrant may be stayed and the

petitioner may be directed to appear before the learned Magistrate on the next date of posting, submits the learned counsel.

2. Witnesses are the eyes and ears of the court. They deserve to be treated with respect. Unless there be contumacious disregard of the order of the court, I would not expect any court to issue coercive process against a witness. At worst a bailable warrant alone should be issued at the first instance. Admittedly, the petitioner has entered appearance and his examination in chief is already over. In these circumstances without any further probing into the matter, I am satisfied that it can be directed that the non-bailable warrant should not be executed and if the petitioner were arrested, he shall be released on his executing a bond for Rs.10,000/- without any surety undertaking to appear before the learned Magistrate on 21.3.2007. If the petitioner does not so appear, of course, the learned Magistrate may thereafter issue non-bailable warrant and proceed against him.

3. This Crl.M.C is accordingly allowed in part to the extent indicated above.

(R. BASANT)
Judge

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